

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
WASHINGTON D.C. DIVISION**

MARBURN ACADEMY, INC.,)	
)	
Respondent.)	
)	
and)	Case No. 09-CA-224092
)	
)	
MICHQUA LEVI,)	
)	
Charging Party.)	

**RESPONDENT MARBURN ACADEMY’S MOTION TO STRIKE COUNSEL FOR THE
GENERAL COUNSEL’S BRIEF TO THE ADMINISTRATIVE LAW JUDGE**

Respondent Marburn Academy, Inc. (“Respondent”), by and through undersigned counsel, respectfully moves to strike Counsel for the General Counsel’s (“General Counsel”) Brief to the Administrative Law Judge. This Motion is made on the grounds that the General Counsel’s Brief is in excess of the twenty-five (25) page limit mandated by the Administrative Law Judge, and the General Counsel has not sought leave to exceed that limit. A Memorandum in Support of Respondent’s Motion is attached.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

On December 21, 2018, at the close of the administrative hearing, Administrative Law Judge Andrew S. Gollin specified to all parties that post-hearing briefs must be twenty-five pages or less. On January 25, 2019, the General Counsel filed his brief to the Administrative Law Judge with the Division of Judges. The General Counsel's brief was twenty nine (29) pages, excluding exhibits. The General Counsel had not sought leave of the Administrative Law Judge or the Division of Judges to file a brief that exceeded the Administrative Law Judge's page limitations. As General Counsel's brief exceeded the Administrative Law Judge's page limitations, his brief should be stricken.

The Administrative Law Judge's instruction was unambiguous and clearly limited the page limitations for all post-hearing briefs. The General Counsel failed to comply with the Administrative Law Judge's instruction, and did not seek leave to exceed the page limitations. Accordingly, the General Counsel's brief should be stricken. See, e.g., *IWG, Inc.*, 322 NLRB 69, fn. 1 (1996) (granting motion to strike exhibit where incorporating exhibit would have exceeded page limitations); *Wal-Mart Stores, Inc.*, 343 NLRB 579 (2004) (granting motion to strike pages from respondent's answer because respondent failed to obtain permission to exceed page limitations); *Pacific Beach Corp.*, 344 NLRB 1160 (2005) (granting employer's motion to strike for violating page limitations).

Respondent moves to strike the General Counsel's Brief to the Administrative Law Judge in its entirety, or alternatively strike the pages beyond the Administrative Law Judge's page limitation (i.e. pages 26 through 29).

Respectfully submitted,

/s/Jan E. Hensel

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that Respondent's Motion to Strike the General Counsel's Brief to the Administrative Law Judge was filed electronically and was electronically served by e-mail upon the following persons on this 31st day of January 2019:

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